

REMARKS

This application has been reviewed in light of the Office Action dated July 12, 2005, and the Advisory Action dated November 2, 2005, indicating that the Amendment filed on October 12, 2005, has been entered and that the rejections under 35 U.S.C. § 101 have been overcome. A Request for Continued Examination (RCE) Transmittal was filed herewith.

Claims 1-24 are presented for examination. Claims 1, 8, 13, and 18 are in independent form and have been amended to define Applicants' invention more clearly. Favorable consideration is respectfully requested.

The July 12th Office Action states that Claims 1-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,443,843 (Walker et al.); and that Claims 1, 3, 5-8, 10-13, 15-18, 20, and 22-24 are rejected under § 102(b) as being anticipated by U.S. Patent No. 5,585,369 (Lieberman). Applicants respectfully traverse the rejections and submit that independent Claims 1, 8, 13, and 18, together with the claims dependent therefrom, are patentably distinct from the cited references for at least the following reasons.

An aspect of the present invention, as set forth in Claim 1, is directed to a method of administering a promotional contest. According to the method, a consumer is provided with an item of a plurality of items of a same type produced by a manufacturer. The item includes an identification code unique to a subset of the plurality of items of the same type. The consumer is enabled to input the identification code into a prize redemption system. The identification code is validated, and a determination is made as to whether the consumer is entitled to receive a prize based on the inputted identification code.

One of the notable features of Claim 1 is that the method enables a consumer to enter a contest using an identification code obtained from an item produced by a manufacturer. The item is one of a plurality of items of the same type produced by the manufacturer, but not all of the plurality of the same type have the same identification code. For example, if the item is a box of oatmeal made by Manufacturer A, all the boxes of oatmeal made by Manufacturer A need not have the same identification code. By virtue of this feature, the “winning” identification code can be placed on or in some or only one of the boxes of oatmeal. Also, by virtue of this feature, multiple different identification codes may be placed on the boxes of oatmeal, each corresponding to a different prize level.

The claimed identification code is different from the ubiquitous UPCs or bar codes found on items available for purchase. Generally, UPCs are the same for every item of the same type produced by the same manufacturer. Therefore, using a UPC as an identification code for a contest would make anyone who is able to view the UPC a winner.

Walker et al. relates to a system for providing a product to a customer according to an outcome of a game. Lieberman relates to a game for promoting a product, in which players are enticed to “seek out, view and handle the product which is the subject of the promotion” (see the abstract). Both of these references have already been discussed in previous Amendments filed in this application.

Nothing has been found in Walker et al. nor Lieberman that is believed to teach or suggest a method of administering a promotional contest, wherein the method includes “providing to a consumer an item of a plurality of items of a same type produced by a manufacturer, wherein the item includes an identification code unique to a subset of the plurality

of items of the same type,” and “enabling the consumer to input the identification code into a prize redemption system,” and “validating the identification code,” and “determining whether the consumer is entitled to receive a prize based on the identification code inputted by the consumer,” as recited in Claim 1.

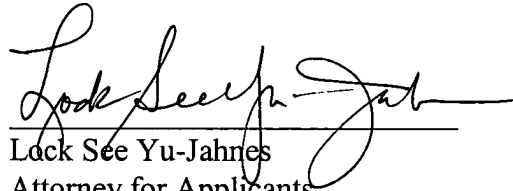
Both Lieberman and Walker et al. are understood to utilize UPCs or SKUs in their promotional contests. However, as discussed above, UPCs generally are the same for every item of the same type produced by the same manufacturer. Similarly, SKUs generally are the same for every item of the same type sold by a vendor. Therefore, these references are believed to *teach away* from a contest in which an item being promoted includes an identification code unique to a *subset* of all items of the same type. Further, Applicants submit that neither Lieberman nor Walker et al. provides any motivation to one of ordinary skill in the relevant art to modify their promotional contests to include an identification code such as that of Claim 1.

Accordingly, Applicants submit that Claim 1 is patentable over Walker et al. and Lieberman, considered individually or in any permissible combination. Therefore, withdrawal of the rejections under 35 U.S.C. §§ 102(b) and 102(e) is respectfully requested. Independent Claims 8, 13, and 18 include one or more features similar to those of Claim 1 and therefore are believed to be patentable for at least the reasons discussed above. Also, the other rejected claims in this application depend from one or another of the independent claims discussed above and therefore are submitted to be patentable for at least the reasons presented above. Because each dependent claim is also deemed to define an additional aspect of the invention, however, reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable consideration and an early passage to issue of this application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lock See Yu-Jahnes", written over a horizontal line.

Lock See Yu-Jahnes
Attorney for Applicants
Registration No. 38,667

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_MAIN 543747v1